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10/813,491	03/30/2004	Edgar Vaughan Shrum JR.	9400-346/BS030801	4902
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AT&T Legal Department Attn: Patent Docketing Room 2A-207 One AT&T Way Bedminster, NJ 07921			EXAMINER SATKIEWICZ, THOMAS E	
			ART UNIT	PAPER NUMBER
			2614	
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			10/15/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/813,491

Applicant(s)

SHRUM ET AL.

Examiner

Thomas E. Satkiewicz

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed 07/15/2008 has been entered. Claims 1-2 and 7-10 have been amended. No Claims have been cancelled. No Claims have been added. Claims 1-10 are still pending in this application, with claims 1 and 7-10 being Independent claims.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 2 and 9-10 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In the Specification Section, Paragraph 0006 states, "This invention includes a software product termed a **Communication Module**", which is a computer program. Software is a non-statutory subject matter.

Claims 1-10 are rejected under 35 U.S.C. 101 because the claimed invention lacks patentable utility. The Claims 1-10 recite manipulation of data with the statements of "determination" and "reconfiguration", but fail to recite a practical application (useful, tangible and concrete result). Further, Claim 10 lacks the requirement under 101 guidelines of the module to be executed.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Lamb et al. (U.S. 6,747,970) (hereinafter "Lamb").

With regards to Claim 1, Lamb teaches a method of providing communications services (Advanced Telecommunication Services; column 25, Line 51), comprising the steps of determining (Determine; Column 33, Line 14) a state (Status; Column 33, Line 14) of an Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) by transmitting (Via; Column 33, Line 49) a message (Inter-Agent Messages, 235; Fig 4; Column 33, Line 14) from a communications module [Inter-Process Communication (IPC) Mechanism; Column 33, Lines 16-17] through a Voice-Over Internet Protocol communications network (Computer Network, 200; Fig 4; Column 34, Line 58) to an Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) to determine (Determine; Column 33, Line 14) if a signaling path (Call Connections, 131 and 132; Fig 4; Column 33, Line 47) to the Internal Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) exists in the Voice-Over Internet Protocol communications network

(Computer Network, 200; Fig 4; Column 34, Line 58); and determining (Determine; Column 33, Line 14) that the signaling path (Call Connections, 131 and 132; Fig 4; Column 33, Line 47) fails to exist (Calling Status; Column 33, Line 24) in response to a failure to receive a response to the message (Periodic Polling; Column 34, Line 20) from the Internet Protocol communication device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49); and reconfiguring (Smart Routing; Column 34, Lines 52-53) call routing information relating to the Internet Protocol communication device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) in response to determining (Determine; Column 33, Line 14) that the signaling path (Call Connections, 131 and 132; Fig 4; Column 33, Line 47) fails to exist (Availability Information, Step 553; Fig 7; Column 47, Line 17), so that an incoming call in the Voice-Over Internet Protocol communications network (VOIP Connection, Step 557; Fig 7; Column 48, Line 34) addressed to the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) is routed to an alternate (Alternatively; Column 47, Line 33) communications device (Contact Other User Agent; Column 47, Lines 34, 35) instead of to the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49).

With regards to Claim 2, Lamb discloses a method, wherein the step of determining (Determine; Column 33, Line 14) the state (Status; Column 33, Line 14) of the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) comprises determining whether the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) fails (Availability

Information, Step 553; Fig 7; Column 47, Line 17) to respond to the message (Periodic Polling; Column 34, Line 20) transmitted by the communication module (User Agent, 301.1-N; Fig 4; Column 33, Line 24).

With regards to Claim 3, Lamb discloses a method, further comprising the step of; If the Internet Protocol communication device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) fails (Availability Information, Step 553; Fig 7; Column 47, Line 17) to respond to the communication (Periodic Polling; Column 34, Line 20), then reconfiguring (Smart Routing; Column 34, Lines 52-53) the call routing information based upon at least one of i) network-defined logic (Availability Information, Step 553; Fig 7; Column 47, Line 17) and ii) subscriber-defined logic (Future Status Information; Column 34, Line 29).

With regards to Claim 4, Lamb discloses method, further comprising the step of reconfiguring (Smart Routing; Column 34, Lines 52-53) the call routing information based upon the network-defined logic (Availability Information, Step 553; Fig 7; Column 47, Line 17).

With regards to Claim 5, Lamb discloses method, further comprising the step of reconfiguring (Smart Routing; Column 34, Lines 52-53) the call routing information based upon a subscriber profile (Future Status Information; Column 34, Line 29).

With regards to Claim 6, Lamb teaches a method, wherein the step of determining (Determine; Column 33, Line 14) the state (Status; Column 33, Line 14) of the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) comprises polling (Periodic Polling; Column 34, Line 20) the Internet

Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49).

With regards to Claim 7, Lamb teaches a method of providing communications services (Advanced Telecommunication Services; column 25, Line 51), comprising the steps of; polling (Periodic Polling; Column 34, Line 20) an Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) to determine (Determine; Column 33, Line 14) if a signaling path (Call Connections, 131 and 132; Fig 4; Column 33, Line 47) exists (Availability Information, Step 553; Fig 7; Column 47, Line 17) in a Voice-Over Internet Protocol communications network (VOIP Connection, Step 557; Fig 7; Column 48, Line 34); and if the signaling path (Call Connections, 131 and 132; Fig 4; Column 33, Line 47) fails to exist (Availability Information, Step 553; Fig 7; Column 47, Line 17), then reconfiguring (Smart Routing; Column 34, Lines 52-53) call routing information for calls addressed to the Internet Protocol communication device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) so that an incoming call in the Voice-Over Internet Protocol communications network (VOIP Connection, Step 557; Fig 7; Column 48, Line 34) addressed to the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) is routed to an alternate (Alternatively; Column 47, Line 33) communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) instead of to the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) based upon at least one of i) network-defined logic (Availability Information, Step 553; Fig 7; Column 47, Line 17) and ii) subscriber-

defined logic (Future Status Information; Column 34, Line 29), wherein the call routing information is reconfigured (Smart Routing; Column 34, Lines 52-53) based upon an availability (Availability Information, Step 553; Fig 7; Column 47, Line 17) of the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49).

With regards to Claim 8, Lamb teaches a method of providing communications services (Advanced Telecommunication Services; column 25, Line 51), comprising the steps of: polling (Periodic Polling; Column 34, Line 20) an Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) to determine (Determine; Column 33, Line 14) if a signaling path (Call Connections, 131 and 132; Fig 4; Column 33, Line 47) exists (Availability Information, Step 553; Fig 7; Column 47, Line 17) in a Voice-Over Internet Protocol communications network (VOIP Connection, Step 557; Fig 7; Column 48, Line 34); and if a response (Availability Information, Step 553; Fig 7; Column 47, Line 17) is not received within a specified time (Determine; Column 33, Line 14), then the reconfiguring (Smart Routing; Column 34, Lines 52-53) call routing information for calls addressed to the Internet Protocol communication device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) so that an incoming call in the Voice-Over Internet Protocol communications network (VOIP Connection, Step 557; Fig 7; Column 48, Line 34) addressed to the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) is routed to an alternate (Alternatively; Column 47, Line 33) communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) instead of to the

Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) based upon at least one of i) the network-defined logic (Availability Information, Step 553; Fig 7; Column 47, Line 17) and ii) the subscriber-defined logic (Future Status Information; Column 34, Line 29), wherein the call routing information is reconfigured (Smart Routing; Column 34, Lines 52-53) based upon an availability (Availability Information, Step 553; Fig 7; Column 47, Line 17) of the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49).

With regards to Claim 9, Lamb discloses a system, comprising: a Communications Module (User Agent, 301.1-N; Fig 4; Column 33, Line 24) stored in a memory device (Memory, 230; Fig 4; Column 29, Line 31), and a processor (Processor, 210, Column 29, Line 31) communicating with the memory device (Memory, 230; Fig 4; Column 29, Line 31); the Communications Module (User Agent, 301.1-N; Fig 4; Column 33, Line 24) determining (Determine; Column 33, Line 14) a state (Status; Column 33, Line 14) of an Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) by transmitting a message (Call Application Message, 240; Fig 4; Column 47, Line 27) from a communications module (User Agent, 301.1-N; Fig 4; Column 33, Line 24) through a Voice-Over Internet Protocol communications network (VOIP Connection, Step 557; Fig 7; Column 48, Line 34) to an Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) to determine (Determine; Column 33, Line 14) if a signaling path (Call Connections, 131 and 132; Fig 4; Column 33, Line 47) to the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33,

Lines 48-49) exists in the Voice-Over Internet Protocol communications network (VOIP Connection, Step 557; Fig 7; Column 48, Line 34) and reconfiguring (Smart Routing; Column 34, Lines 52-53) call routing information for calls addressed to the Internet Protocol communication device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) so that an incoming call in the Voice-Over Internet Protocol communications network (VOIP Connection, Step 557; Fig 7; Column 48, Line 34) addressed to the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) is routed to an alternate (Alternatively; Column 47, Line 33) communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) instead of to the Internet Protocol communications device based upon the state (Status; Column 33, Line 14) of the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49).

With regards to Claim 10, Lamb discloses a computer program product, comprising: a computer-readable medium (Memory, 230; Fig 4; Column 29, Line 31); and a Communications Module (User Agent, 301.1-N; Fig 4; Column 33, Line 24) stored on the computer-readable medium (Memory, 230; Fig 4; Column 29, Line 31), the Communications Module (User Agent, 301.1-N; Fig 4; Column 33, Line 24) determining (Determine; Column 33, Line 14) a state (Status; Column 33, Line 14) of an Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) by transmitting a message (Call Application Message, 240; Fig 4; Column 47, Line 27) from a communications module (User Agent, 301.1-N; Fig 4; Column 33, Line 24) through a Voice-Over Internet Protocol communications network

(VOIP Connection, Step 557; Fig 7; Column 48, Line 34) to an Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) to determine (Determine; Column 33, Line 14) if a signaling path (Call Connections, 131 and 132; Fig 4; Column 33, Line 47) to the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) exists in the Voice-Over Internet Protocol communications network (VOIP Connection, Step 557; Fig 7; Column 48, Line 34) and reconfiguring (Smart Routing; Column 34, Lines 52-53) call routing information for calls addressed to the Internet Protocol communication device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) so that an incoming call in the Voice-Over Internet Protocol communications network (VOIP Connection, Step 557; Fig 7; Column 48, Line 34) addressed to the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) is routed to an alternate (Alternatively; Column 47, Line 33) communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) instead of to the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) based upon the state (Status; Column 33, Line 14) of the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49).

Response to Arguments

5. Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas E. Satkiewicz whose telephone number is (571) 270-1948. The examiner can normally be reached on Monday to Thursday 6:30AM to 3:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar can be reached on (571) 272-7488. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thomas E Satkiewicz/
Examiner, Art Unit 2614

/Ahmad F. Matar/
Supervisory Patent Examiner, Art Unit 2614